

Apr 15, 2019

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

JOSE ELPIDIO SOLORIO-BEJAR,

Defendant.

No. 2:11-CR-6072-WFN-2

ORDER

Pending before the Court is Defendant's *pro se* Motion for Modification of Term of Imprisonment pursuant to section 3582(c)(2). ECF No. 197. The Court sentenced Defendant to 126 months in custody. Defendant's criminal history category is a III and the total offense level was 33. Defendant's original guideline range was 168 – 210 months. At sentencing the Court addressed the 18 U.S.C. § 3553(a) factors and imposed a sentence outside the advisory sentencing guideline system. Amendment 782 only applies where the original sentence was based on the guidelines. Since Defendant's sentence was not based on the guidelines, he is ineligible for a sentencing reduction. The Court notes that a two-level decrease in the total offense level results in a total offense level of 31 and a guideline range of 135 – 168 months. Defendant's original sentence falls below this adjusted range. Based on a review of the case, the Court concludes that the original sentence appropriately addressed the § 3553(a) factors and that a guideline sentence of 135 – 168 months would result in more time in custody than necessary.

The Court has reviewed the file and Motions and is fully informed. Accordingly,

IT IS ORDERED that Defendant's *pro se* Motion for Modification of Term of Imprisonment, filed February 26, 2019, **ECF No. 197**, is **DENIED**.

The District Court Executive is directed to file this Order and provide copies to counsel **AND TO** *pro se* Defendant.

DATED this 15th day of April, 2019.

s/ Wm. Fremming Nielsen

WM. FREMMING NIELSEN

SENIOR UNITED STATES DISTRICT JUDGE

04-15-19